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STATE FOR O/GAC, EAP/MLS, EAP/EP  
STATE PASS TO USAID FOR ANE AND GH  
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SUBJECT: VIETNAM'S FIRST HIV/AIDS LAW: TRANSFORMING NATIONAL  
APPROACHES AND ATTITUDES

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SENSITIVE BUT UNCLASSIFIED

¶1. (SBU) Summary: On June 29, 2006, the National Assembly of Vietnam passed the Law on HIV/AIDS Prevention and Control. The legislation, the first on this subject, goes into effect on January 1, 2007. While details are still under discussion, this bold and comprehensive new Law demonstrates Vietnam's serious commitment to combating the disease and mobilizing all sectors of the country, including provincial leadership, community- and faith-based organizations, and international groups. Protection of rights for people living with HIV/AIDS (PLWHAs), substitution therapy for drug abusers, insurance and anti-retroviral drug benefits are among the key issues addressed in the law. The unusually open debate and discussion conducted during the past year on the Law's measures, through seminars, media outlets and National Assembly hearings, offer a rare opportunity for civil society involvement in the lawmaking process, which is usually tightly controlled by the Communist Party. As the fifteenth focus country under the President's Emergency Plan for AIDS Relief, Vietnam will continue to

receive strong USG support and funding as it continues to construct laws, regulations and policies dealing with HIV/AIDS. End Summary.

#### Vietnam's First HIV/AIDS Law: Key Provisions

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¶2. (SBU) On June 29, 2006, the National Assembly of Vietnam passed the long-awaited Law on HIV/AIDS Prevention and Control, the first of its kind in the country. Earlier that month, Deputy Prime Minister Pham Gia Khiem pledged to "hammer out bolder and more effective measures" at the High Level Meeting of the United Nations General Assembly on HIV/AIDS. The comprehensive measure goes into effect on January 1, 2007, overriding a myriad of administrative ordinances and decrees issued by the Government of Vietnam (GVN) in the past decade. The Law includes a total of six chapters and fifty articles that will affect an estimated 280,000 PLWHAs in Vietnam, including 10,000 children. The estimated number of reported (or known) cases of HIV/AIDS is expected to rise to 310,000 by 2010.

¶3. (SBU) A recurring theme throughout the Law is the emphasis on the rights of PLWHAs and the need to combat stigma and discrimination. According to the Law, PLWHAs have the right to refuse medical examination and treatment, but must notify their spouse or fiancé and health workers directly dealing with their care and treatment of their positive status. Privacy rights are clearly outlined, particularly in the workplace with regards to promotion and termination; employers cannot require HIV tests. Testing will only be compulsory when a court dictates it. Even rights to burial and cremation (significant in a Taoist-based society) and admittance to schools are explicitly mentioned with enforcement provisions.

¶4. (SBU) Another key focus in the Law is the inclusion of prevention measures for high risk groups (sex workers and injecting drug users) including the use of condoms, safe-injecting practices,

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and expanding the treatment of addiction to illegal drugs through the use of medication-assisted therapies (e.g., methadone, naltrexone, etc). A key component is mainstream drug substitution therapy with a full range of comprehensive addictions counseling and supportive interventions. Provisions on blood transfusions, diagnostic bio-products, sterilization, disinfection and benefits of volunteers in vaccine trials are also outlined in detail.

¶5. (SBU) Prevention of mother-to-child transmission is another priority, with commitment to assist babies born to HIV mothers with substitutions for breast milk. Medical establishments are clearly identified as responsible for HIV/AIDS treatment and implementing preventive measures against mother-to-child transmission. National mobilization in fighting AIDS, not restricted to officials and organizations only, are touted, urging awareness and action from local leaders at the hamlet, village and clan levels. Additional emphasis on public awareness, prevention education and general messaging on stigma are prominent in the Law. Free anti-retroviral drugs (ARV) will be provided to those exposed by occupational accidents or medical procedures, pregnant women, abandoned orphans and children under the age of six. Those who hold medical insurance are now covered for HIV/AIDS examinations and treatment.

#### How the Law Evolved

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¶6. (SBU) National Assembly deputies debated the draft Law in two major sessions in February and May 2006. Intense discussion focused on the right of infected patients to privacy and refusal of medical treatment. The debate over who would receive free ARV drugs and who would not, through the provision of health insurance, was also a key point of debate. Discussion about building separate schools for HIV-positive children was met with vehement opposition from representatives in the southern provinces of Ho Chi Minh City and Long An. Some legislators argued that a proposal to have all fees for examinations and treatments paid by insurance would be discrimination for those who do not have insurance.

¶7. (SBU) According to the Law's key drafter, Ministry of Health (MOH) Deputy Director of Health Legislation Nguyen Huy Quang,

existing laws in Cambodia, the Philippines, Australia and Japan influenced Vietnam's draft. The main focus of the Law remains on the rights of PLWHAs, prevention interventions and the critical need to involve all levels of authority, down to the commune-level (even though the overall directive comes from the Communist Party's central authorities). Quang also insisted that Vietnam's Law is clearer than that of Cambodia and the Philippines on prevention interventions and the rights of PLWHAs, although both were used as models. Quang acknowledged the real challenge is that "regulations do not change people overnight" and that the Law is a work in progress, ready for adjustment and revision as needed. Supporting PLWHA clubs and organizations is an important statement the GVN is attempting to make to the public about stigma and discrimination,

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even allowing the establishment of a State-sanctioned national association for PLWHA.

18. (SBU) The USG began supporting work on the development of an HIV/AIDS Law in Vietnam in 2002 through a USAID grant to the POLICY Project, which has since been renamed the Health Policy Initiative (HPI). Funding is now supported by the President's Emergency Fund for AIDS Relief (PEPFAR). The HPI was instrumental in providing technical assistance to the GVN drafting team and eventually direct support to the National Assembly in revising the draft Law, which passed with a number of heavily debated gains for HIV advocates. The Mission's interagency PEPFAR team has provided the MOH direct feedback on the draft Law, thereby encouraging legislation that addresses comprehensive concerns, particularly on stigma and the use of methadone in medication-assisted therapy for illicit drug users.

19. (SBU) According to HPI Advisor David Stephens, the new Law could be stronger but it is a good base to start, particularly because of the intensive consultative process that went into drafting the Law, which sought opinions from international organizations, the Women's and Youth Unions (quasi-governmental mass organizations), provincial officials and PLWHAs. It provided an opportunity for "ownership" of the Law by different segments of civil society that are usually not afforded such a voice. Frank, vigorous and sometimes contentious debates on testing and privacy heralded a rare forum in Vietnam, a society where laws are usually drafted behind closed doors.

Vietnam's Long Road: Dealing with HIV/AIDS

10. (SBU) The first case of AIDS in Vietnam was detected in 1991 when a 24-year-old woman in Ho Chi Minh City discovered her status during a routine blood test required for immigration to Australia. By February 1995, 2,280 cases were detected throughout the country. Now, the prevalence rate in the general population is estimated at 0.53 percent, with high-risk groups including sex workers and injecting drug users a growing concern, and the epidemic has spread to all 64 provinces and major cities in Vietnam. A Communist Party Directive dated March 11, 1995, did little more than note the formation of a National AIDS Committee consisting of eighteen members of government agencies and mass organizations under the chairmanship of the Deputy Prime Minister. The Directive called for a "healthy, faithful life avoiding drugs and prostitution," which are "social evils" to be countered with strong police surveillance and sentences.

11. (SBU) The Ordinance on the Prevention and Control of HIV/AIDS followed in April 1995, containing definitions of HIV and vague references to protecting PLWHAs from discrimination, encouraging family members of those infected to provide care and moral support, but no legal protections. The ordinance gave doctors the authority to test a patient for HIV during a routine medical examination and

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require the patient to notify the spouse. Doctors also reserved the right to inform other family members, employers and affiliated organizations. People infected with HIV were also prohibited from working in "some sectors" which were never clearly defined. Dr.

Stephens of HPI calls the 1995 Ordinance a "measure without teeth" as it failed to provide transparent legal guidelines and address the protection of the rights of PLWHAs, confidentiality and privacy issues. Since 2003, HPI has been working hard to provide input to shape key portions of the Law through the Institute of Health Policy under the direction of the Ministry of Health.

¶12. (SBU) Like many countries, Vietnam was initially unprepared to deal with the onslaught of AIDS. By 2004, the GVN had constructed a National Strategic Plan on HIV/AIDS Prevention (2004-2010), including a supplementary Vision to 2020. For the first time, the GVN laid out guidelines and measures for a national response to combat the disease through a multi-pronged approach enlisting the Ministries of Education and Training; Culture and Information; Public Security; Labor; Invalids and Social Affairs; Health; Finance; and even Planning and Investment. The GVN opened its arms to international cooperation and set a goal to reduce the national prevalence rate in the general population below 0.3 percent by 2010.

Another goal was to ensure that 70 percent of HIV patients receive ARV by 2010. The Strategic Plan included specific commitments to negotiating the reduction of ARV's prices, establishing satellite treatment quarters of regional hospitals and implementing voluntary counseling and testing programs in all provinces by 2010. The Supplementary Vision to 2020 committed prevention activities for a "gradual reduction in the absolute number of people infected" by the year 2020.

¶13. (SBU) In June 2004, Vietnam became the fifteenth PEPFAR focus country. Nearly USD 80 million have been allocated under the EP thus far and another USD 59 million are slated for FY07. With over thirty international and local partners and sub-grantees that make up the PEPFAR family in Vietnam, a wide-ranging network of programs to provide ARV medicines, HIV care, prevention and treatment have been in place for the past two years with plans for expansion in FY07 to additional partners and provinces with focused programs.

#### A Concrete Pledge and Moving Forward

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¶14. (SBU) Vietnam made a critical decision to take its commitments to a deeper level in December 2005 when the Central Committee of the Communist Party Secretariat instructed local Party committees to tackle HIV/AIDS as an "urgent and long-term duty." The directive cited local prevention plans to combat prostitution and drug abuse, along with public efforts directed at youth, sex workers and homosexuals. The Party Central Committee's Commissions for Science and Education, and Ideology and Culture, and the United Nations Development Program (UNDP) also jointly agreed to implement a three-year plan with USD 2 million from UNDP and the Swedish

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International Development Cooperation Agency (SIDA) and USD 250,000 from the GVN in the three pilot provinces of Lang Son, Khanh Hoa and An Giang. The project objective was to establish guidelines and policies to create a legal basis for multi-sector HIV/AIDS prevention and gender equality. Under the project, HIV/AIDS would be included in socio-economic development plans, and a new method for contact with HIV/AIDS patients would be applied in the pilot provinces.

¶15. (SBU) In November 2005, Vice President Truong My Hoa highlighted the impact of stigma on PLWHAs at a meeting organized by UNDP and SIDA with 50 members of the Bright Futures Group, a PLWHA network organization founded in 2003 with over 500 members currently nationwide. The Vice President stated that the government would "reaffirm the highest political commitment of the Party, State and Vietnamese people in reducing stigma and discrimination." Another mark of progress was the inclusion of PLWHA groups and international organizations in the discussion to develop a national law on HIV/AIDS, an unusual nod towards civil society involvement. Coupled with the HIV/AIDS Law is the draft Law on Associations currently, which has long been under debate in Vietnam and seeks to establish regulations for Vietnamese and foreign organizations to convene, including groups to promote HIV/AIDS networks. The latest version of the Law on Associations was pulled from the National Assembly's 2006 work plan; when it will be considered is unclear.

## Steps Toward Implementation and Beyond

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¶16. (SBU) Since the issuance of the HIV/AIDS Law in June 2006, the GVN has been busy working out the details on implementation in January, 2007. The MOH held a series of seminars in August in northern, central and southern regions to explain the Law to provincial leaders, lawyers, media representatives, PLWHAs and community groups. HPI continues its work with MOH on the Law's implementing decrees and regulations, debating how detailed they should be and the need to build in flexibility to deal with a changing environment. PEPFAR Vietnam's FY07 draft budget supports plans for HPI to continue to work with the GVN, local PLWHA groups and individuals to examine and assist with the implementation of the HIV/AIDS Law at the provincial level.

¶17. (SBU) Mobilizing the state-owned media in a strong public affairs campaign is also an essential component of the Law's implementation. Deputy Director of the Central Party Committee's Commission for Science and Education Pham Manh Hung, held a press briefing on September 28 urging the media to report more effectively on HIV/AIDS. He emphasized that the disease does not equate to a "social evil" and called on provincial and city officials to step up local plans to fight stigma. Human interest pieces in the State-controlled Vietnam News Agency and Voice of Vietnam radio about discrimination and stigma faced by PLWHAs have significantly increased in recent months. Post's Public Affairs Section has

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intensified efforts to educate the public about HIV/AIDS and tell our story of the President's Emergency Plan through press releases and seminars. Joining forces with an online newspaper, Post also successfully organized Vietnam's first, live web chat on HIV/AIDS in May with a panel consisting of a PEPFAR team member, PLWHAs and health experts. A letter to the editor submitted by the Ambassador that congratulated the media's more balanced focus and attention on HIV/AIDS, and PLWHAs in particular, was recently published in the Vietnam News.

¶18. (SBU) One of the most significant by-products of the HIV/AIDS lawmaking process has been the engagement of civil society and community groups, which continues as plans for implementation of the Law unfold. The Center for Consultation on Legal and Policy on Health and HIV/AIDS under the Vietnam Lawyers' Association is currently training lawyers and PLWHAs in provinces with the highest infection rates. Faith-based organizations and religious groups are also receiving open encouragement from the GVN to join the fight against HIV/AIDS. In April, Buddhist clerics convened in HCMC for a conference to share experience in providing support to PLWHAs. Through PEPFAR funding, a number of pagodas in Hanoi, Hue and HCMC provide face-to-face and telephone consultations for tens of thousands of people. Clerics have also held more than thirty training courses for monks and nuns, provided free medical checkups and treatment to over 8,000 patients, and organized memorial services and worship for hundreds of families whose loved ones have died from AIDS.

¶19. (SBU) Before implementation of the Law on January 1, 2007, the GVN must release details of the legal measures. This includes a list of occupations requiring HIV testing before recruitment, regulations on care and treatment of women during pregnancy delivery, regulations on monitoring sexually transmitted diseases and the responsibility of medical establishments, procedures for HIV testing, and steps for HIV education in schools as MOET develops content for teachers' manuals on sex education. Issues such as reproductive technology, standards for voluntary testing centers, as well as counseling and prevention among discordant couples (couples where one member is HIV-positive while the other is HIV-negative) are also areas that will require further attention by policymakers in the future.

MARINE